

Indians, Eskimo, Aleut, and Native Hawaiians in the practice of their traditional religions.

(e) The Department will aggressively implement these policies to meet goals for the positive management of the cultural environment.

§ 3100.44 Implementation.

(a) It is the intent of the Department to carry out its program of management of the cultural environment in the most effective and efficient manner possible. Implementation must consider natural resource utilization, must exemplify good government, and must constitute a noninflationary approach which makes the best use of tax dollars.

(b) The commitment to cultural resource protection is vital. That commitment will be balanced with the multiple departmental goals of food and fiber production, environmental protection, natural resource and energy conservation, and rural development. It is essential that all of these be managed to reduce conflicts between programs. Positive management of the cultural environment can contribute to achieving better land use, protection of rural communities and farm lands, conservation of energy, and more efficient use of resources.

(c) In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered. The Department must act to preserve future options; loss of important cultural resources must be avoided except in the face of overriding national interest where there are no reasonable alternatives.

(d) To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) should be consulted about potential conflict areas in the management of the cultural environment and the means to reduce or eliminate such conflicts.

§ 3100.45 Direction to agencies.

(a) Each agency of the Department shall consult with OEQ to determine whether its programs and activities may affect the cultural environment. Then, if needed, the agency, in con-

sultation with the OEQ, shall develop its own specific procedures for implementing section 106 of the National Historic Preservation Act, Executive Order 11593, the regulations of the ACHP (36 CFR part 800), the American Indian Religious Freedom Act of 1978 and other relevant legislation and regulations in accordance with the agency's programs, mission and authorities. Such implementing procedures shall be published as proposed and final procedures in the FEDERAL REGISTER, and must be consistent with the requirements of 36 CFR part 800 and this subpart. Where applicable, each agency's procedures must contain mechanisms to insure:

(1) Compliance with section 106 of NHPA and mitigation of adverse effects to cultural properties on or eligible for the National Register of Historic Places;

(2) Clear definition of the kind and variety of sites and properties which should be managed;

(3) Development of a long-term program of management of the cultural environment on lands administered by USDA as well as direction for project-specific protection;

(4) Identification of all properties listed on or eligible for listing in the National Register that may be affected directly or indirectly by a proposed activity;

(5) Location, identification and nomination to the Register of all sites, buildings, objects, districts, neighborhoods, and networks under its management which appear to qualify (in compliance with E.O. 11593);

(6) The exercise of caution to assure that properties managed by USDA which may qualify for nomination are not transferred, sold, demolished, or substantially altered;

(7) Early consultation with, and involvement of, the State Historic Preservation Officer(s), the ACHP, Native American traditional religious leaders and appropriate tribal leaders, and others with appropriate interests or expertise;

(8) Early notification to insure substantive and meaningful involvement by the public in the agency's decision-making process as it relates to the cultural environment;

(9) Identification and consideration of alternatives to a proposed undertaking that would mitigate or minimize adverse effects to a property identified under paragraph (a)(4) of this section;

(10) Funding of mitigation measures where required to minimize the potential for adverse effects on the cultural environment. Funds for mitigation shall be available and shall be spent when needed during the life of the project to mitigate the expected loss; and

(11) Development of plans to provide for the management, protection, maintenance and/or restoration of Register sites under its management.

(b) Each agency of the Department which conducts programs or activities that may have an effect on the cultural environment shall recruit, place, develop, or otherwise have available, professional expertise in anthropology, archeology, history, historic preservation, historic architecture, and/or cultural resource management (depending upon specific need). Such arrangements may include internal hiring, Intergovernmental Personnel Act assignments, memoranda of agreement with other agencies or Departments, or other mechanisms which insure a professionally directed program. Agencies should use Department of the Interior professional standards (36 CFR 61.5) as guidelines to insure Departmentwide competence and consistency.

(c) Compliance with cultural resource legislation is the responsibility of each individual agency. Consideration of cultural resource values must begin during the earliest planning stages of any undertaking.

(d) Agency heads shall insure that cultural resource management activities meet professional standards as promulgated by the Department of the Interior (e.g., 36 CFR parts 60, 63, 66, 1208).

(e) Cultural resource review requirements and compliance with section 106 of NHPA and Executive Order 11593 shall be integrated and run concurrently, rather than consecutively, with the other environmental considerations under NEPA regulations. As such, direct and indirect impacts on cultural resources must be addressed in

the environmental assessment for every agency undertaking. In meeting these requirements, agencies shall be guided by regulations implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) and Department of Agriculture regulations (7 CFR part 3100, subpart B).

(f) Each agency shall work closely with the appropriate State Historic Preservation Officer(s) in their preparation of State plans, determination of inventory needs, and collection of data relevant to general plans or specific undertakings in carrying out mutual cultural resource responsibilities.

(g) Each agency shall, to the maximum extent possible, use existing historic structures for administrative purposes in compliance with Public Buildings Cooperative Use Act of 1976 and Executive Order 12072, “Federal Space Management”.

(h) Each agency should consult with Native American traditional religious leaders or their representatives and other native leaders in the development and implementation of cultural resource programs which may affect their religious customs and practices.

§3100.46 Responsibilities of the Department of Agriculture.

(a) Within the Department, the responsibility for the protection of the cultural environment is assigned to the Office of Environmental Quality (OEQ). The Office is responsible for reviewing the development and implementation of agency procedures and insuring Departmental commitment to cultural resource goals.

(b) The Director of the OEQ is the Secretary’s Designee to the ACHP.

(c) In order to carry out cultural resource responsibilities, there will be professional expertise within the OEQ to advise agencies, aid the Department in meeting its cultural resource management goals, and to insure that all Departmental and agency undertakings comply with applicable cultural resource protection legislation and regulations.

(d) The OEQ will be involved in individual compliance cases only where resolution cannot be reached at the agency level. Prior to the decision to refer a matter to the full Council of the